

### **Talking Points on SB13-041 for Senator Hodge**

Senator Roberts and I are bringing SB13-041 in response to the case of Upper Yampa Water Conservancy Dist. v. Wolfe (State Engineer).

- The Colorado supreme court held that storage of water is not a beneficial use, at least where flood control and fire or drought protection are not the stated uses of the water, and
- That to perfect a conditional storage right, the water must be released from storage and put to beneficial use.
- In addition, an applicant must show that it has exhausted its absolute rights before its conditional storage rights can be perfected.

In the arid West, storage is critical to supply water and kept in reserve for droughts.

- Depending upon the severity of a drought some water kept in reserve may not be released or used for many years.
- Holding this water until needed in case of drought is absolutely critical to a secure water supply and should not be considered speculative or contrary to law.

The revisions in SB13-041 acknowledge that beneficial use of water held in storage for application to decreed purposes will:

1. preserve Colorado's anti-speculation policy;
2. prevent unwarranted claims of abandonment; and
3. facilitate making conditional storage rights absolute.

The revisions in this statutory amendment do not:



1. change or affect in any respect the law regarding the manner in which historic consumptive use is calculated or determined in any proceeding for a change of water right, and
2. intended to alter or amend the State Engineer's carryover policies or guidelines.